

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

OTIS LEE RODGERS,

Plaintiff, No. CIV S-05-0805 DFL CMK

vs.

D. SHARPE, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner who has filed a petition to proceed *in forma pauperis*.

Before the court is plaintiff's motion for a temporary restraining order preventing the defendants from destroying or damaging plaintiff's literary works.

The legal principles applicable to a request for injunctive relief such as a restraining order, are well established. To prevail, the moving party must show either a likelihood of success on the merits and the possibility of irreparable injury, or that serious questions are raised and the balance of hardships tips sharply in the movant's favor. See Coalition for Economic Equity v. Wilson, 122 F.3d 692, 700 (9th Cir. 1997); Oakland Tribune, Inc. v. Chronicle Publ'g Co., 762 F.2d 1374, 1376 (9th Cir. 1985). The two formulations represent two points on a sliding scale with the focal point being the degree of irreparable injury shown. Oakland Tribune, 762 F.2d at 1376. "Under any formulation of the test, plaintiff must

1 demonstrate that there exists a significant threat of irreparable injury." Id. In the absence of a
2 significant showing of possible irreparable harm, the court need not reach the issue of likelihood
3 of success on the merits. Id.

4 Here, plaintiff expects this court to order a temporary restraining order on the
5 mere allegation that his manuscript was taken. Plaintiff has not demonstrated he will succeed on
6 the merits or be injured. Plaintiff does not show that serious questions are raised or that he will
7 suffer hardship if the temporary restraining order.

8 Instead, plaintiff alleges that his manuscript was taken during lock down. Plaintiff
9 also admits he has not exhausted his claims.

10 Accordingly, IT IS SO ORDERED that plaintiff's motion for a temporary
11 restraining order is DENIED.

12 DATED: June 23, 2005.

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15 CRAIG M. KELLISON
UNITED STATES MAGISTRATE JUDGE

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Defendants.

NOTICE OF SUBMISSION

OF DOCUMENTS

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Plaintiff hereby submits the following documents in compliance with the court's
order filed _____:

_____ completed summons form

_____ completed USM-285 forms

_____ copies of the _____ Complaint/Amended Complaint

DATED:

Plaintiff _____